

# **EXHIBIT “D-3”**

1 UNITED STATES DISTRICT COURT

2 NORTHERN DISTRICT OF NEW YORK

3 \* \* \* \* \*

4 SIDNEY MANES, Administrator of the Estate of HECTOR  
5 RIVAS,

6 Plaintiff,

7 No. 19-CV-844 (BKS) (TWD)

8 - against -

9 ONONDAGA COUNTY; CITY OF SYRACUSE; WILLIAM FITZPATRICK;  
10 DR. ERIK MITCHELL; AND "JOHN DOES 1-10",

11 Defendants.

12 \* \* \* \* \*

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16  
17 **EXAMINATION BEFORE TRIAL** of

18 **SIDNEY MANES**, Plaintiff, taken pursuant  
19 to Notice, via videoconference by Zoom,  
20 held in New York State on October 18, 2022,  
21 and taken by LISA M. SCHUSTER, Court  
22 Reporter and Notary Public, in and for  
23 the State of New York.  
24  
25

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2  
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25

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S T I P U L A T I O N S

IT IS STIPULATED by and between the attorneys for the respective parties that the testimony contained herein may be used upon the trial of this action; that the filing of the testimony is waived; that all objections, except objections as to form, are reserved until the time of trial, and that objections as to form shall be noted on the record; that the examining party will furnish the examined party a copy of the transcript of testimony free of charge and that the testimony be taken before **Lisa M. Schuster**, a Shorthand Reporter and Notary Public in and for the State of New York, whose oath is waived.

-oOo-

1 VIDEOGRAPHER: We are on the record at  
2 10:09 a.m. Today is Tuesday, October 18th,  
3 2022. I am David Parrotta of Parrotta Studio  
4 located in Rochester, New York. We are  
5 conducting this deposition via videoconference.  
6 We are about to begin the video-recorded  
7 deposition of Sidney Manes, in the matter of  
8 Sidney Manes, Administrator of the Estate of  
9 Hector Rivas, Plaintiff, against Onondaga  
10 County, City of Syracuse, William Fitzpatrick,  
11 Dr. Erik Mitchell and John Does one through ten  
12 Defendants.

13 In attendance is the court reporter, Lisa  
14 M. Schuster, of Rome, New York. At this time  
15 the attorneys will identify themselves and the  
16 parties they represent, after which our court  
17 reporter will swear in the witness and we may  
18 proceed.

19 MR. KORENBAUM: Scott A. Korenbaum for  
20 Mr. Manes.

21 MR. MOSKOVITZ: Joshua Moskovitz also for  
22 Sidney Manes.

23 MR. SONNEBORN: Jim Sonneborn is Mr.  
24 Manes' personal attorney.

25 MR. JULIAN: Robert Julian for Fitzpatrick

1 and Mitchell.

2 MR. VENTRONE: And Mark Ventrone for the  
3 County of Onondaga.

4 **S I D N E Y M A N E S**, Having been called as a witness  
5 and being first duly sworn, testified as follows:

6 **EXAMINATION BY**

7 **MR. JULIAN:**

8 Q. Good morning, Mr. Manes. We've met before.  
9 Bob Julian for the Defendants. Again, if I cut you off,  
10 just tell me, because of the nature of the communication  
11 that may happen, it's not my intent. All right?

12 A. All right. Thank you, Mr. Julian.

13 Q. How are you today?

14 A. Very well, thank you.

15 Q. Good. So what I'd like to do is if you recall  
16 in your first deposition, you spoke about the Nanette  
17 Gordon case, do you remember that?

18 A. Yes.

19 Q. And do you have any files or records with  
20 regard to that case?

21 A. Yes.

22 Q. You do? Is that case relevant to this case,  
23 the case you brought on behalf of Mr. Rivas' estate, in  
24 your opinion?

25 A. No.

1 MR. KORENBAUM: Objection to the form of  
2 the question, but you can answer.

3 A. No, not relevant at all.

4 Q. Okay. Is there anything about that case that  
5 in your opinion pertains to the relationship between  
6 Fitzpatrick and Mitchell?

7 MR. KORENBAUM: Could you repeat the  
8 question, please?

9 MR. JULIAN: Sure. Actually, that's fine.  
10 I'll move on.

11 Q. Mr. Manes --

12 MR. JULIAN: Could we bring up Exhibit A,  
13 the Complaint, please?

14 Q. -- are you able to see that, sir?

15 A. Yes.

16 Q. Okay. I'd like to go to the paragraph -- to  
17 paragraph 101 through 103. And would you take a look at  
18 those paragraphs, please, and let me know when you're  
19 done reading them?

20 MR. KORENBAUM: We need to go to the next  
21 page, Mr. Julian. 103 continues onto the next  
22 page.

23 MR. JULIAN: Yep. Thanks. Sorry.

24 THE WITNESS: Back two.

25 MR. KORENBAUM: Back, please. I'm sorry.



1 Mr. Manes said back two.

2 MR. JULIAN: It's all right.

3 Q. Mr. Manes, tell us when you want us to scroll.

4 A. Okay.

5 Q. Does that mean you want us to scroll?

6 A. No, not yet.

7 Q. Okay. Sorry.

8 A. Okay. You can go on.

9 Q. Okay. Thank you. If I can direct your  
10 attention --

11 MR. KORENBAUM: Hold on. He has to finish  
12 reading the end of the paragraph.

13 MR. JULIAN: Okay. Sorry. Sorry.

14 A. Through 103?

15 Q. Yes.

16 A. Okay. I've now read them.

17 Q. Okay. Thank you. Now if we can go back to  
18 102, please? Paragraph 102 states that Fitzpatrick,  
19 quote, deliberately withheld it, meaning the exculpatory  
20 affidavit from the defense in violation of his obligation  
21 under Brady and its progeny, do you see that?

22 A. Yes, I see it.

23 Q. What was your basis for making that allegation?

24 A. I believe that came from the court records.

25 Q. Okay.

1 A. I was not at the trial.

2 Q. Sure. There are lots of courts in this case.  
3 Can you tell me what specific court you're referencing?

4 A. The trial court.

5 Q. The trial court? And can you tell me your  
6 basis for alleging that this was deliberately withheld?

7 A. The trial record, to the best of my knowledge.  
8 I was not at the trial.

9 Q. Okay. Is there a particular part of the trial  
10 record that you recollect that caused you to allege that  
11 Fitzpatrick deliberately withheld this?

12 A. I recall in reading the record, there was a  
13 discussion between the judge, Mr. Fitzpatrick and  
14 Mr. Calle, Mr. Rivas' attorney.

15 Q. Okay. And what do you remember about that  
16 discussion that forms the basis for the allegation that  
17 this was deliberately withheld?

18 A. The record, as I recall, if I can remember,  
19 that particular document, which was a reference through  
20 possible other person who might have committed the crime,  
21 that was only shown to -- according to the record, as I  
22 recall, that was only shown to Mr. Calle at the time of  
23 the trial and not before.

24 Q. I understand that, but what is your basis for  
25 saying it was deliberate rather than inadvertent?

1           A.    Well, there was no record of it by  
2   Mr. Fitzpatrick in the record that he had provided that  
3   for the indicating in the record.

4           Q.    When you say there was no record of it, could  
5   you be more explanatory, please?

6           A.    Well, a document, when it's presented to the  
7   other side, is usually recorded, this was not recorded.

8           Q.    Right. And what I'm trying to determine in  
9   terms of your knowledge is your basis for saying that was  
10  not -- that that was deliberately not provided as opposed  
11  to inadvertently not provided, what is your basis?

12          A.    Well, it didn't come out until they were  
13  already in trial. There was a not document which had  
14  been provided prior to the trial.

15          Q.    Okay. Has anyone told you that Fitzpatrick  
16  acknowledged that he deliberately withheld this document?

17          A.    Not that I remember.

18          Q.    With regard to -- could you now read paragraphs  
19  104 to 111, please?

20          A.    What was the last paragraph you wanted me to  
21  read?

22          Q.    Yes. 111.

23          A.    Oh, okay. Okay. I've read them.

24          Q.    Thank you. Are you claiming any misconduct on  
25  Fitzpatrick's part with regard to paragraphs 104 to 111?

1 A. I don't understand your question, please.

2 Q. Are you claiming that Fitzpatrick did something  
3 wrong with regard to paragraphs 104 to 111?

4 MR. KORENBAUM: Object to the form of the  
5 question. Mr. Manes can answer it.

6 A. I was not at the trial, but I have read the  
7 documents maybe out of the trial, and this was an issue  
8 that was made as I recall in the testimony about the  
9 return of the book; further, there were -- yes, that all  
10 came from the record.

11 Q. Okay. Are you claiming that Fitzpatrick did  
12 anything inappropriate with regard to paragraphs 104 to  
13 111?

14 MR. KORENBAUM: Objection. Mr. Manes can  
15 answer.

16 A. The only thing that I recall was that there  
17 were fingerprints on the book that were never identified  
18 as being Mr. Rivas'. There were other people that were  
19 never identified.

20 Q. Is there anything about that that you're  
21 claiming was inappropriate or misconduct on Fitzpatrick's  
22 part?

23 A. Well, it seemed in the record that he was  
24 trying to show that Mr. Rivas had returned the book as a  
25 ploy as to the time of death or that Valerie was alive at

1 that time, and it was a ploy according to the record.

2 Q. Define "ploy."

3 A. Well, that it was Rivas who tried to use this  
4 book as being returned.

5 Q. All right.

6 A. Valerie on Saturday when allegedly she had been  
7 killed on Friday.

8 Q. And what do you say, if anything, Fitzpatrick  
9 did that was inappropriate?

10 A. He didn't identify anything to connect  
11 Mr. Rivas to it, no fingerprints, nothing, but there were  
12 two or three sets of fingerprints that were never  
13 identified.

14 Q. Okay. Sir, do you agree that Mr. Rivas'  
15 attorney was given the opportunity with regard to the  
16 Barricella issue and the Affidavit from Morgan was given  
17 the opportunity to adjourn and chose not to?

18 MR. KORENBAUM: Objection. Mr. Manes can  
19 answer.

20 A. That was in the record.

21 Q. So you agree?

22 A. As I recall the trial record.

23 Q. Yes. Okay. Thank you. Now, if we could go to  
24 paragraphs 112 to 118, and would you be kind enough to  
25 read those?

1 A. Yes. Okay. I've read them.

2 Q. All right. What --

3 MR. KORENBAUM: Hold on, Mr. Julian. You  
4 asked him to read through 118 and --

5 THE WITNESS: Oh, 118?

6 MR. KORENBAUM: You said 118, correct?

7 MR. JULIAN: Yes, I did.

8 THE WITNESS: Oh, I'm sorry. I hadn't  
9 read that.

10 MR. KORENBAUM: So he has to read 116, 117  
11 and 118, the balance of 116, and then 117 and  
12 118.

13 THE WITNESS: Okay.

14 MR. JULIAN: While he's reading, may I  
15 just have one second? I'll be right back.  
16 Thank you.

17 Q. Sir, have you read those paragraphs?

18 A. I have, Mr. Julian.

19 Q. Thank you. Can you tell me, please, do you  
20 claim that Mr. Fitzpatrick engaged in any misconduct as  
21 set forth in those paragraphs?

22 A. Will you repeat the question, please?

23 Q. Of course. Do you claim that Fitzpatrick  
24 engaged in any misconduct as set forth in those  
25 paragraphs?

1           A.    In my reading of the record, on the fact that  
2   he identified the slides as being, I forget the  
3   terminology he used, it's in those paragraphs. Can you  
4   scroll back a bit, please?

5           Q.    Sure. Yes, by all means.

6           A.    Hold it. Autopsy sectional slides of the  
7   brain. There were no such slides of the brain.

8           Q.    Did he use the word -- did he use the word  
9   tissue as it pertains to those slides?

10                  MR. KORENBAUM: Objection. Mr. Manes can  
11                  answer.

12           A.    I don't remember that, but in reading the  
13   record, he totally changed the reference to the slides.

14           Q.    Is there a difference between photographic or  
15   Kodachrome slides and tissue slides, to your  
16   understanding?

17           A.    Yes, absolutely.

18                  MR. KORENBAUM: Objection. Mr. Manes can  
19                  answer.

20           A.    Yes, absolutely.

21           Q.    What's the difference?

22           A.    Well, there's slides of the brain and not  
23   tissues samples which would tell you some of the results  
24   that they found in the brain, alcohol or drugs and  
25   pictures of the brain, which was a picture that was taken

1 of the brain in formaldehyde, that wouldn't tell you  
2 anything scientific about the brain as Dr. Wecht  
3 testified.

4 MR. KORENBAUM: That's W-e-c-h-t.

5 Q. Do you know if the pictures of the brain were  
6 pictures of the brain as sectioned or divided?

7 A. Repeat the question, please, Mr. Julian.

8 Q. Of course. Were the photographs of the brain  
9 that you're describing, were they photographs of the  
10 brain having been sectioned or divided?

11 A. The pictures of the brain did not show it, it  
12 was in a jar filled with formaldehyde. That would be  
13 Dr. Collins who examined the brain, wrote a report that  
14 said there was nothing abnormal in the brain, and that's  
15 all part of the record.

16 Q. Who is Dr. Collins?

17 A. Dr. Collins was a professor at the University  
18 Hospital, to the best of my knowledge, and he was given  
19 the brain to examine in a jar, and he filled it with --  
20 and he said there is nothing wrong with the brain as I  
21 examined it, that's in the record.

22 Q. He's a neuropathologist?

23 A. To my knowledge, yes.

24 Q. And he issued a report?

25 A. Yes.



1 Q. Was that a part of the autopsy report?

2 A. I don't know whether if that's what they  
3 considered it or not, but it was certainly part of the  
4 record. And if I can add one other thing, if I may. It  
5 was part of the record Dr. Wecht reviewed.

6 MR. JULIAN: Can we go to Exhibit C,  
7 please?

8 THE WITNESS: Is that a question?

9 MR. KORENBAUM: No. No.

10 MR. JULIAN: I'm sorry. Not for you, for  
11 the videographer.

12 Q. All right. Sir, I show you Exhibit C and ask  
13 you to examine the same. Would you be kind enough to  
14 read it, and then I'll ask you some questions about it?

15 A. Sure. I've read it.

16 Q. All right. Is this what you're referring to in  
17 terms of Dr. Collins' report?

18 A. Yep.

19 Q. Can we agree that he says, "Coronal sections of  
20 the cerebral hemispheres reveal essentially normal  
21 development of the brain without evidence of pathologic  
22 abnormality," can we agree he says that?

23 A. That's in his report, yes.

24 Q. All right. Can we agree that he says, "The  
25 deeper areas of the brain are riddled with cavities

1 developed due to decomposition," do you agree that he  
2 said that?

3 A. Yep, it's in the report.

4 Q. And can we agree that his diagnosis was,  
5 "Normal brain with postmortem decomposition," can we  
6 agree that he said that?

7 A. Yes. And Dr. Wecht --

8 MR. KORENBAUM: There's no question.

9 THE WITNESS: There's no question? Okay.

10 Q. Do you have an understanding as to what he  
11 meant by coronal sections of the cerebral hemispheres?

12 MR. KORENBAUM: Objection. Mr. Manes can  
13 answer.

14 A. According to Dr. Wecht, when you put the brain  
15 into formaldehyde, there is a decomposition that starts  
16 approximately ten days after it's submerged, and  
17 Dr. Wecht was very clear that there were no brain slides  
18 other than the two pictures that he saw and that there is  
19 not any justification for extending the time of death  
20 based upon the decomposition of the brain in  
21 formaldehyde, no scientific reason.

22 Q. So are you saying that your understanding as to  
23 the words "coronal sections" are based on what you just  
24 told me?

25 A. Yes.

1 MR. JULIAN: Okay. Can we go back to  
2 Exhibit A, please, and can we go to number one,  
3 paragraph number 118?

4 Q. Sir, you state in paragraph 118, "By doing the  
5 aforementioned, thr defendants perjured themselves." How  
6 did they perjure themselves?

7 MR. KORENBAUM: Objection. Mr. Manes can  
8 answer.

9 A. When I read the record, the time of death was  
10 determined to be Saturday night or Sunday morning from  
11 which the district attorney acknowledged that Mr. Rivas  
12 had a perfect alibi for Saturday night and Sunday morning  
13 in regard to her death. There was an opening Friday  
14 night, according to the record, of three hours when there  
15 was the possible no basis of an alibi and it was  
16 necessary to stretch the time of death according to the  
17 record.

18 Now, there was documentation to substantiate  
19 the time of death initially found by Dr. Mitchell and  
20 there's information to the police who did, in fact,  
21 obtain a warrant identifying those times when Mr. Rivas  
22 might have killed Valerie and they had to find a  
23 different time of death. From the record, it seemed to  
24 me that without question, they used the brain and the  
25 slides and notes to justify the moving of the time of

1 death.

2 MR. JULIAN: Can we go to Exhibit D,  
3 please?

4 VIDEOGRAPHER: Did you say D, sir?

5 MR. JULIAN: D as in dog, yes.

6 VIDEOGRAPHER: All right. Thank you.

7 Q. Sir, can we look at the narrative medical  
8 history, please, in the lower left-hand corner?

9 MR. KORENBAUM: It needs to be rotated.

10 Q. Do you see the narrative medical history?

11 A. I didn't understand that.

12 Q. Okay. Simple question. Do you see Exhibit D  
13 where it says, narrative slash medical history?

14 MR. KORENBAUM: It's very small,  
15 Mr. Julian. Can you enlarge it? Thank you.  
16 Too much.

17 MR. JULIAN: Yep.

18 A. The deceased was found prone in her residence.  
19 Yep, I see that.

20 Q. All right. Does this record -- withdrawn.  
21 Can we agree that this is a -- I'm sorry. I  
22 apologize.

23 A. That's all right.

24 Q. Can we agree that this is a record that was  
25 generated by the medical examiner's office?

1           A.    I'm sorry.  Would you tell me the question  
2           again?

3           Q.    Of course.  Can we agree that this was a record  
4           generated by the medical examiners's office?

5           A.    I'm sorry.  I would assume so, but I can't tell  
6           that.

7           Q.    Are you taking this record into consideration  
8           when you allege that Mitchell and Fitzpatrick perjured  
9           themselves in paragraph 118 of the Complaint?

10                  MR. KORENBAUM:  Objection to the form of  
11                  the question.  Mr. Manes can answer it.

12           A.    I have no idea when it was written, I have no  
13           idea who wrote it.  I can't answer that.

14           Q.    Okay.  In terms of the fabrication of evidence  
15           against Rivas, can you tell me when that occurred in  
16           terms of the timeframe as you allege it in paragraph 118?

17           A.    I'm sorry, Mr. Julian.  I don't understand the  
18           question.

19           Q.    Sure.  You allege that there was fabricated  
20           evidence against Rivas, correct?

21           A.    Yes, pursuant to the record.

22           Q.    And when did the fabrication occur, when did  
23           that happen?

24           A.    To the best of my -- from the record, as best  
25           as I can understand, that fabrication started with the

1 grand jury and Dr. Mitchell testifying that that new  
2 review of his notes and slides.

3 MR. JULIAN: Okay. Now, can we go back to  
4 Exhibit A, please?

5 Q. And would you be kind enough to read paragraph  
6 122, sir, and then let us know when you've read it?

7 A. Yes, I've read it.

8 Q. Okay. What are you claiming in this paragraph?

9 MR. KORENBAUM: Objection to the form of  
10 the question. Mr. Manes can answer if he  
11 understands it.

12 A. Well, as I read it, after Hector was convicted,  
13 Dr. Mitchell resigned from his position. Now pursuant to  
14 the records, there were a number of outstanding  
15 proceedings that were still in effect as concerns  
16 Dr. Mitchell and those were all dropped and the office  
17 criminal investigation into Mitchell and the New York  
18 State Department of Health investigation into Mitchell  
19 all dropped and Dr. Mitchell resigned and went to another  
20 location.

21 Q. All right. Have you ever discussed with  
22 Mr. Fitzpatrick your claim that he dropped his office's  
23 criminal investigation into Mitchell?

24 A. I've never discussed that with Mr. Fitzpatrick.

25 Q. Have you ever discussed that with anyone?

1 A. Was that the question?

2 Q. Yes.

3 MR. KORENBAUM: Other than his lawyers?

4 MR. JULIAN: Other than his lawyers, of  
5 course. Thank you, Scott.

6 A. I don't know. What's the question?

7 Q. Have you ever discussed the allegation in  
8 paragraph 122 that defendant Fitzpatrick dropped his  
9 office's criminal investigation into Mitchell with anyone  
10 other than your lawyers?

11 MR. KORENBAUM: So I should broaden the  
12 objection as well to any cocounsel with respect  
13 to postconviction proceedings. I assume you  
14 agree to that, as well, Mr. Julian?

15 MR. JULIAN: You're serious that would be  
16 attorney-client communication?

17 MR. KORENBAUM: Or work product.

18 MR. JULIAN: Okay. For the purpose of  
19 getting through this, sure, but reserving my  
20 right to further have a determination.

21 Q. Want me to do it one more time, Sidney?

22 A. Yes, please.

23 Q. Okay. Have you discussed with anyone, other  
24 than lawyers in this case or lawyers who were  
25 representing Mr. Rivas and/or his estate in any

1 proceeding, the allegation that Fitzpatrick dropped his  
2 office's criminal investigation into Mitchell?

3 A. I'm sorry. I can't remember whether I did or  
4 not.

5 Q. Okay. Did anyone outside of your lawyers ever  
6 tell you in words or substance that Fitzpatrick dropped  
7 his office's criminal investigation into Mitchell, and if  
8 so, who?

9 A. From my best -- no. I guess my best  
10 recollection was that Dr. Mitchell had a lawyer, Sidney  
11 Cominski, and Sidney Cominski and Mr. Fitzpatrick and  
12 Dr. Mitchell had a conversation in which I was close by  
13 but did not participate in the discussion between  
14 Dr. Mitchell, Fitzpatrick and Sidney Cominski.

15 Q. Did you overhear the discussion?

16 A. I just knew of the discussion because I was  
17 there, but I was not part of the discussion.

18 Q. No. But did you hear what was said?

19 A. Well, it had to do with some of the proceedings  
20 that were outstanding against Dr. Mitchell by both the  
21 DEC, the department of health, but I didn't hear any of  
22 the negotiations or what actually transpired.

23 Q. When did this occur?

24 A. Sometime after -- well, I'm sorry. I just  
25 don't remember.



1 Q. Where did this occur?

2 A. Where?

3 Q. Where.

4 A. Oh, it took place in the court room.

5 Q. Okay. Why were you in the court room?

6 A. I was there with Dr. Mitchell in regard to the  
7 Nanette Gordon case in which Dr. Mitchell was a suspect.

8 Q. And can we agree that this was long before the  
9 Rivas trial?

10 A. No, we can't agree to that.

11 Q. We can't agree to that?

12 A. No.

13 Q. Well, can we agree it was before the Rivas  
14 trial?

15 A. Yes, I believe it was.

16 Q. Can you tell me why you were all in the court  
17 room, what was the reason for being there?

18 A. I can't remember at this point.

19 Q. Can you tell me what courthouse it was?

20 A. It was supreme Court Onondaga County.

21 Q. Can you tell me who the judge was?

22 A. I believe it was Judge Donald Miller, as I  
23 recall.

24 Q. Donald Miller, M-i-l-l-e-r?

25 A. I'm sorry. Say it again, please.

1 Q. Yeah. Donald Miller, M-i-l-l-e-r?

2 A. That's correct.

3 Q. Okay.

4 A. I think that's who it was.

5 Q. Do you have any documents pertaining to that  
6 proceeding?

7 A. There's a record, a full record.

8 Q. Do you have it?

9 A. I don't know whether I do or not at this point.

10 Q. Will you look to see if you do?

11 A. I'll look, certainly.

12 Q. Okay. In a general sense, can you explain the  
13 purpose of your being in the court room with Judge Miller  
14 and Mr. Fitzpatrick and Mr. Cominski and Dr. Mitchell?

15 A. Is this relevant?

16 MR. KORENBAUM: Note my objection. You  
17 can answer the question.

18 A. Okay. Dr. Miller -- no, not Dr. Miller.  
19 Dr. Mitchell had issued a death certificate, this  
20 concerns Nanette Gordon being undetermined how she died,  
21 and everything in the record that I reviewed indicated  
22 clearly that she had been murdered. We -- I applied to  
23 Judge Miller, I think there was a Petition I filed to  
24 compel Dr. Mitchell to issue a new death certificate, and  
25 I outlined to the judge what was referenced in the

1 autopsy report that it seemed to be a murder. The judge  
2 agreed to designate three other medical examiners to  
3 examine the documents and to make a determination to the  
4 court in regard to whether or not she had been murdered.  
5 Two out of the three decided that, yes, it was a murder,  
6 and at that point the judge directed Dr. Mitchell to  
7 issue a new autopsy report and that cause of death as  
8 being murder, and there was a series of appearances in  
9 court, and it was at one of those appearances where  
10 Mr. Fitzpatrick, Mr. Cominski, Dr. Mitchell discussed  
11 whatever they discussed, and I was there, as well, but  
12 did not overhear it.

13 Q. Okay. And can you explain to me, please, what  
14 that has to do with your allegation in paragraph 122 that  
15 defendant Fitzpatrick dropped his office's criminal  
16 investigation into Mitchell, if anything?

17 A. He testified in the Rivas case --

18 MR. KORENBAUM: Hold on. The court  
19 reporter can't -- there's background noise I  
20 believe on Mr. Julian's perspective and he's  
21 trying to address that.

22 THE WITNESS: All right.

23 MR. KORENBAUM: And the court reporter is  
24 having difficulty hearing, is that right?

25 MR. JULIAN: Let me -- if we can just take

1 five minutes, let me see if I can end the  
2 background noise.

3 VIDEOGRAPHER: It is 11:03 a.m. We're  
4 going off the record.

5 ( Whereupon, a recess was taken )

6 VIDEOGRAPHER: It's 11:12 a.m. and we're  
7 back on the record.

8 ( The requested material was read )

9 Q. Are you able to answer that, Mr. Manes?

10 MR. KORENBAUM: Object to the form of the  
11 question.

12 A. The only thing I can tell you -- no. He  
13 subsequently left Syracuse without any further criminal  
14 proceedings against him, Dr. Mitchell, and he left and  
15 got another job in another community.

16 Q. What relationship, if any, is there in terms of  
17 what you've just said to the Nanette Gordon case?

18 A. Well, he was a suspect in the Nanette Gordon  
19 case.

20 Q. Okay.

21 A. There was a number of charges by the department  
22 of environmental conservation. There was a mentor  
23 assigned to Dr. Mitchell by the department of health, and  
24 as I recall the record, Dr. Mitchell was admonished for  
25 the operation of his department and all of those things

1       were outstanding, he left with a good bill of health.

2           Q.     So what you just described all occurred with  
3       regard to the Nanette Gordon case?

4                   MR. KORENBAUM:  Objection.  You can  
5       answer, Mr. Manes.

6           A.     It was all part of it, I guess, in the sense of  
7       he being a suspect in her murder.  In the record,  
8       Dr. Mitchell disappeared for six hours on the night that  
9       she was murdered and nobody knew where he was, he said he  
10      fell asleep.  So there was lots of little things hanging  
11      out there.

12          Q.     Okay.  And can you explain to me what this has  
13      to do with your claim that Fitzpatrick dropped his  
14      office's criminal investigation into Mitchell in  
15      paragraph 122?

16                  MR. KORENBAUM:  Objection.  You can answer  
17      it.

18          A.     He walked away without one charge being -- I  
19      mean, without any further proceedings against him by the  
20      district attorney's office.

21                  MR. JULIAN:  Could we go to paragraph 191,  
22      please?

23          Q.     Mr. Manes, could you take a moment and read  
24      paragraph 191, please?

25          A.     I've reviewed it.

1 Q. Thank you. With regard to that paragraph, it  
2 is stated in the Complaint that the defendants,  
3 Fitzpatrick and Mitchell, caused Plaintiff's decedent  
4 Hector Rivas to be prosecuted with malice, do you see  
5 that?

6 A. Yes.

7 Q. Could you please give me, in terms of your  
8 understanding and basis, each and every factual  
9 circumstance which causes you to allege this?

10 MR. KORENBAUM: Objection. Mr. Manes can  
11 answer.

12 A. When the death occurred of Valerie Hill, in the  
13 interrogation of Mr. Rivas for twelve hours by the police  
14 department, he was told that although he had been  
15 considered a suspect, to the best of my knowledge as I  
16 remember the record, and that he was free to go.

17 He stayed in Syracuse for another two years or  
18 so and subsequently went back to the Bronx, which was his  
19 home, and six years later, almost six years later without  
20 any definitive determination or other evidence produced,  
21 Mr. Rivas was presented to the grand jury and he was  
22 indicted for murder one and murder two.

23 Now after six years without any further  
24 evidence, it seems to me and in the review of the record,  
25 that he was profiled and subsequently wound up to be

1 found guilty of murder in the second degree.

2 Q. Is there anything else that you would like to  
3 provide that supports your claim of malice on the part of  
4 Fitzpatrick and Mitchell?

5 MR. KORENBAUM: Objection. You can  
6 answer.

7 A. Well, after the trial and 22 years or so of  
8 being incarcerated, and the second circuit court of  
9 appeals found him actually innocent and mandated that he  
10 be released and that the guilty plea be disposed of,  
11 which is exactly what happened with great difficulty and  
12 objections and so forth that he was, in fact, found to be  
13 actually innocent, and that's where we are.

14 Q. Anything else?

15 A. The record, I guess, speaks for itself at this  
16 point, that's all I can tell you.

17 Q. I'm sorry, Sidney. We missed the first part of  
18 your answer.

19 MR. JULIAN: Scott, if you want to tell us  
20 what he said.

21 MR. KORENBAUM: Why don't you just repeat  
22 what you said, Sidney. I think what he said,  
23 I'm not sure we're on the same page, the last  
24 thing Mr. Manes said well, the record speaks  
25 for itself.

1 THE WITNESS: Yeah.

2 Q. Okay. What are you referring to in terms of a  
3 court decision that references your representation that  
4 Mr. Rivas was found to be actually innocent?

5 A. The court of appeals back in the circuit found  
6 that there was questions in regard to the Brady material  
7 which was not supplied and it was exculpatory, the fact  
8 that the brain slides didn't exist and were used by  
9 Mr. Fitzpatrick to obtain a conviction that the time of  
10 death was subsequently changed and extended because of  
11 the brain slides' composition or decomposition, all of  
12 those things they took into account and as the activities  
13 of Mr. Fitzpatrick with regard to documentation that was  
14 not supplied to Calle, his lawyer, who was also found to  
15 be ineffectual in his handling of Mr. Rivas' case. All  
16 of those things were taken into account by the second  
17 circuit. I appeared before them on three separate  
18 occasions where the district court was overruled three  
19 separate times and the court finally said give him a new  
20 trial.

21 Q. And a new trial was scheduled prior to his  
22 death, correct?

23 A. A new trial was -- say it again, Mr. Julian.

24 Q. Scheduled prior to his death.

25 A. Yes. He was to be retried on July 18th. He



1 died on July 10th, a week before the trial.

2 Q. Didn't you bring a proceeding in the court of  
3 claims to attempt to have him declared actually innocent?

4 A. I'm sorry. Would you say that again, please?

5 Q. Did you bring a proceeding in the court of  
6 claims to have Mr. Rivas declared actually innocent?

7 MR. KORENBAUM: Objection. You can  
8 answer.

9 A. I'm sorry. I don't remember.

10 MR. JULIAN: Okay. As to -- can we now go  
11 to paragraph 194?

12 Q. And I would ask you, sir, to read paragraphs  
13 194 through 200.

14 MR. KORENBAUM: I'm sorry. 194 through?

15 MR. JULIAN: 200.

16 MR. KORENBAUM: Thank you.

17 MR. JULIAN: You're welcome.

18 A. Can you go up a bit, please? Thank you. Was  
19 it through 199?

20 MR. KORENBAUM: 200.

21 A. Oh, 200. Okay. I think I've read it.

22 Q. If we can go back now and look at paragraph  
23 195. This paragraph says that Fitzpatrick and Mitchell  
24 utilized process with the intent to harm Hector Rivas  
25 without economic or social excuse or justification, do

1 you see that?

2 A. Yep, I see it.

3 Q. To your knowledge, did Mitchell issue any  
4 process?

5 MR. KORENBAUM: Objection to the form of  
6 the question. Mr. Manes can answer.

7 A. I don't understand the question.

8 Q. Right. Well, my question is: Mitchell, as  
9 medical examiner, did he ever summons Mr. Rivas?

10 A. I don't understand that at all, Mr. Julian.  
11 Forgive me.

12 Q. No. What I'm trying to figure, I mean you  
13 claim in this second claim that Mitchell regularly issued  
14 process against Rivas. What process did he issue?

15 MR. KORENBAUM: Objection. You can  
16 answer.

17 A. The process was, I think, is his conversation  
18 and testimony at the trial.

19 Q. Okay. But to your knowledge, did he issue any  
20 specific documents that caused Rivas to be subject to  
21 process?

22 MR. KORENBAUM: Objection. You can  
23 answer.

24 A. The records said when he testified in the grand  
25 jury, that there were notes and there were brain slides

1 or slides - excuse me - and the notes were never examined  
2 by Mr. Calle, the brain slides were never examined by  
3 Mr. Calle, and Mr. Calle was not prepared for this trial.  
4 He did a very ineffective defense for Mr. Rivas. Now,  
5 that's what the record says.

6 MR. KORENBAUM: Mr. Manes, I'm not sure  
7 that was responsive to Mr. Julian's question.  
8 Mr. Julian, why don't you repeat the question,  
9 if that's okay.

10 MR. JULIAN: That's fine, if it's all  
11 right with you, Scott. Lisa, could you just  
12 read the question back, please?

13 ( The requested material was read )

14 MR. KORENBAUM: Referring to Dr. Mitchell,  
15 correct?

16 MR. JULIAN: Yes, correct. Thank you.

17 MR. KORENBAUM: Object to the form of the  
18 question now, but Mr. Manes can answer it.

19 A. The only response I can give you is that the  
20 process was the testimony that he gave.

21 Q. Now, as it pertains to Fitzpatrick, what  
22 regularly issued process against Rivas are you claiming  
23 he issued?

24 MR. KORENBAUM: Object to the form of the  
25 question. Mr. Manes can answer it if he

1 understands it.

2 A. He prosecuted after six years after the death  
3 of Valerie Hill and there was nothing presented to change  
4 that except the testimony by Dr. Mitchell.

5 Q. You state in paragraph 196, "Defendants were  
6 seeking a collateral advantage or corresponding detriment  
7 to Hector Rivas which was outside the legitimate ends of  
8 the process." Can you explain that?

9 MR. KORENBAUM: Object to the form of the  
10 question. Mr. Manes can answer it.

11 A. That was how I read the record.

12 Q. Okay. Can you tell me what collateral  
13 advantage either Fitzpatrick or Mitchell was seeking?

14 MR. KORENBAUM: Object to the question.  
15 Mr. Manes can answer it.

16 A. Just that he had -- that Mr. Fitzpatrick had  
17 just been elected as the new district attorney in  
18 Onondaga County and he was opening up cold cases, and  
19 Hector Rivas was one of those cold cases that he opened,  
20 and he decided that Mr. Rivas was the murderer, and with  
21 Dr. Mitchell's help, he proved it.

22 Q. Is it, in your opinion, appropriate for a  
23 district attorney to open closed cases, in a general  
24 sense?

25 A. I'm sorry. I have no idea of that.

1 Q. Can we look at paragraph 197? You state, "The  
2 closing out of which inured to the benefit of the  
3 Onondaga District Attorney's office's stature and  
4 statistics and to give defendant Fitzpatrick another,  
5 'notch on the belt,'" do you see that?

6 A. Yep.

7 Q. Who were you quoting?

8 A. Who am I quoting?

9 Q. I'm sorry. I didn't hear you.

10 MR. KORENBAUM: He was asking you.

11 Q. Well, the quote notch on the belt is in  
12 quotation marks, and I'm asking who you were quoting.

13 A. Well, I don't -- I can't answer that question.  
14 I have no idea.

15 Q. In a general sense, you claim in paragraph 199  
16 that Mr. Rivas enured damages, you also make that claim  
17 in paragraph 187, and it occurs throughout the Complaint.  
18 So if I could just ask you several general questions  
19 about Mr. Rivas. Can you tell me, please, if you know,  
20 what his background and training was?

21 A. Yes.

22 Q. Would you, please?

23 A. Yes. Mr. Rivas was a certified plumber in the  
24 County of Onondaga, in the County of Madison. He had a  
25 business going, he was quite successful at it, and that

1 he owned property in Cazenovia, an apartment complex he  
2 owned, collected rents. He was successful a businessman  
3 and did a lot of work as a plumber, he got paid  
4 accordingly.

5 Q. Do you have any records associated with his  
6 business?

7 A. I don't. I don't believe I do, no.

8 Q. Will you search your records to see if you do,  
9 and if so, would you provide them to your lawyer?

10 A. Okay.

11 MR. KORENBAUM: Mr. Julian, just with  
12 respect to any requests for documents that  
13 you're making today, tomorrow, previously, just  
14 would you follow them up in writing, we'd  
15 appreciate it.

16 Q. Okay. Do you have any of his tax returns?

17 A. Do I have what? Excuse me.

18 Q. Any of his tax returns.

19 MR. KORENBAUM: Tax returns.

20 A. No, I don't. No, I don't.

21 Q. Do you know if he was employed between the time  
22 of Valerie Hill's death and his indictment?

23 A. Yes.

24 Q. Where was he employed?

25 A. He was a super in the Bronx of a large

1 apartment complex where he was in charge of the  
2 maintenance of that apartment complex and had an  
3 apartment there. He was the super, superintendent.

4 Q. Superintendent, yes. Do you know what he was  
5 earning in that capacity?

6 A. I don't know.

7 Q. Do you know who, if anyone, he was supporting?

8 A. Well, he was married, had a child and himself.  
9 He had two children, a child by his first marriage and a  
10 child by a second.

11 Q. Do you know the age of his child at the time he  
12 was indicted?

13 A. Yes. His age, yes.

14 MR. KORENBAUM: Children's age. He said  
15 children's age, right?

16 MR. JULIAN: Thank you, yes. Children's,  
17 I apologize. Children's.

18 A. He had a boy who was 20, went into the Army,  
19 and then he subsequently had another child when he was  
20 while in prison, and that child by the time he got out  
21 was ten-years old. Those were the two children that he  
22 had, two boys.

23 Q. Do you know the name of his first wife?

24 A. No, I do not, sir.

25 Q. Do you know the name of his second wife?

1 A. Yes. Marilyn Ortiz.

2 Q. Do you know, were they married before he went  
3 to prison or after?

4 A. After.

5 MR. KORENBAUM: Referring to Ms. Ortiz?

6 MR. JULIAN: Yes. Thank you very much,  
7 yes. Thank you.

8 A. To my knowledge, it was after he was in prison.

9 Q. All right. At the time he was tried, to your  
10 knowledge, was he single?

11 A. Was he single?

12 Q. Yes, was he single?

13 A. Yes.

14 Q. And so the younger child was conceived after  
15 his trial, correct?

16 A. Yeah. Yes.

17 Q. Okay. Do you know the status of his wife,  
18 where is she living?

19 A. Yeah.

20 Q. Where is she living?

21 A. Well, I don't know the address right offhand,  
22 but I believe I can get you her address.

23 Q. All right. Is she living in New York City?

24 A. Yeah. Yes.

25 Q. And do you know the status, the present status



1 of his younger child?

2 A. Yes. He's a -- the status?

3 Q. Yes.

4 A. Living well, is that what you mean?

5 Q. Yes. Is he in school, what does he do?

6 A. Well, he's married, I think he has a child of  
7 his own, yeah.

8 Q. In terms of damages, can you identify what the  
9 claim is, if any, for economic damages, economic loss in  
10 this case?

11 MR. KORENBAUM: Objection to the form of  
12 the question. If you understand it, you can  
13 answer it.

14 A. I'm not sure I -- you mean -- would you say it  
15 again?

16 Q. Sure. I'm just trying to understand if there  
17 is a claim for economic damages in this case.

18 MR. KORENBAUM: Objection. We can  
19 represent that there is.

20 MR. JULIAN: Okay.

21 MR. KORENBAUM: Generally, yes, there is.

22 MR. JULIAN: All right. Is -- I'm not  
23 looking to engage in a feudal exercise. Is  
24 there some way we can have that identified for  
25 us before trial?

1 MR. KORENBAUM: I don't think that's -- we  
2 will confer, and yes, that will be something  
3 that will be shared.

4 MR. JULIAN: Okay. And can we agree that  
5 if there are tax returns or other indices of  
6 loss, that those will be provided to us?

7 MR. KORENBAUM: We will provide you with  
8 relevant documentation relating to that  
9 economic loss.

10 Q. Okay. Do you know if Mr. Rivas had engaged in  
11 counseling? And when I say counseling, did he receive  
12 emotional counseling during his incarceration, to your  
13 knowledge?

14 A. I don't know. I have no idea of emotional  
15 counseling.

16 Q. Is there a claim that there is emotional  
17 injury, and if so, are there supporting documents  
18 associated therewith?

19 MR. JULIAN: Scott, you can answer. I'm  
20 not looking --

21 MR. KORENBAUM: Yes, there is a claim for  
22 spending as many years in custody we claim  
23 wrongfully that were taken an emotional toll  
24 on. Yes, there is a claim for emotional  
25 distress for however many years Mr. Rivas had

1           been in custody we claim wrongfully, and so --  
2           and there are specific documents relating to,  
3           just to use your example, that he was receiving  
4           counseling while incarcerated. When we get  
5           them, we will produce them.

6           MR. JULIAN: Great. Thank you.

7           Q. With regard to Mr. Rivas' demise, which I  
8           understand was secondary to and caused by cancer, is  
9           there any claim with regard to that?

10          MR. KORENBAUM: Mr. Julian, why don't you  
11          direct the questions to Mr. Manes. We can have  
12          this conversation outside of the context of the  
13          deposition.

14          MR. JULIAN: Okay. Well, I'm asking him.

15          MR. KORENBAUM: Okay.

16          A. Forgive me. Mr. Julian, would you repeat it?

17          Q. Absolutely. Sure. Is there any claim that the  
18          defendants in this case caused or contributed to his  
19          demise secondary to cancer?

20          A. I can't answer that, other than that the fact  
21          that being incarcerated for 24 years, he had a -- the  
22          medical care that he had at the Onondaga County Justice  
23          Center was not justice, it was very, very poor and that  
24          may have contributed. I don't know whether -- I'm not a  
25          physician, so I can't answer that any further.

1 Q. There was a lawsuit with regard to the medical  
2 care that he received, correct?

3 A. What was the question?

4 Q. Sure. Did you bring a lawsuit on behalf of  
5 either Mr. Rivas or his estate that sounded in medical  
6 malpractice or the care that he received for his cancer?

7 A. Yes. There was a local odd challenge to the  
8 treatment that he received and he had -- he had some  
9 medical problems for which he was not really treated  
10 well, and then subsequent to that he had the cancer, so  
11 there was a pairing separation between the two. And he  
12 suffered terribly in the first one, and by time the  
13 second one came around, which was the cancer, it had  
14 gotten out of hand and so --

15 MR. KORENBAUM: Could you repeat the  
16 question, Mr. Julian?

17 MR. JULIAN: Lisa, could you read it back,  
18 please?

19 ( The requested material was read )

20 MR. KORENBAUM: That calls for a yes or no  
21 answer.

22 A. Yes.

23 Q. Can you tell me the basis of the lawsuit?

24 MR. KORENBAUM: Objection. You can  
25 answer.

1           A.    As I recall, it was -- I believe it was  
2 malpractice in regard to the medical personnel, that's  
3 about the best I can tell you.

4           Q.    Sure. Did you refer the case to counsel?

5           A.    Yes.

6           Q.    Do you recall who you referred it to?

7           A.    Michelle Rudderow. R-u-d-d-e-r-m-a-n, I  
8 believe that's how it's spelled.

9           Q.    I think it's R-u-d-d-e-r-o-w.

10          A.    Oh, there you -- thank you.

11          Q.    You're welcome. Do you recall the underlying  
12 claim, was it for misdiagnosed cancer or some other  
13 condition or both?

14                   MR. KORENBAUM: Objection. Mr. Manes can  
15 answer.

16          A.    I'm sorry. I just don't remember.

17          Q.    Okay. Do you remember how much money the case  
18 was settled for?

19          A.    Yes. It was for \$25,000.

20          Q.    Do you recall who the paying defendant or  
21 defendants were?

22                   MR. KORENBAUM: Objection. You can  
23 answer.

24          A.    The county or the county insurance company, I  
25 should say.

1 Q. Was the case, if you can remember, was the case  
2 settled while Mr. Rivas was alive or was it settled after  
3 his demise?

4 A. After his demise.

5 MR. JULIAN: Can we turn to paragraph 202,  
6 please, of Exhibit A?

7 MR. KORENBAUM: Do you want to take a  
8 five-minute break and then we'll finish up?

9 MR. JULIAN: How are we doing? Do you --

10 MR. KORENBAUM: Why don't we do this, why  
11 don't we take another five-minute break, and  
12 then we'll go to about 12:15?

13 MR. JULIAN: That's fine.

14 VIDEOGRAPHER: 11:56 a.m. We're going off  
15 the record.

16 ( Whereupon, a recess was taken )

17 VIDEOGRAPHER: It's 12:05 p.m. We're back  
18 on the record.

19 Q. Paragraph 202 of Exhibit A, have you read it,  
20 or would you read it? I can't remember if you'd read it  
21 or not, so would you read it, please?

22 A. I have read it.

23 Q. The claim against Fitzpatrick and Mitchell is  
24 that they failed to intervene on behalf of Mr. Rivas  
25 whose constitutional rights were being violated. Can you

1 explain your claim against them in terms of what ever  
2 facts or detail you have?

3 MR. KORENBAUM: Object to the form of the  
4 question. Mr. Manes can answer if he's  
5 capable.

6 A. I don't think I'm capable of answering that  
7 question.

8 Q. Okay. Let's go to paragraph 205. Would you  
9 read it, please, Mr. Manes?

10 A. Yep. Okay. I've read it.

11 Q. All right. With regard to this claim, can you  
12 describe for me in terms of facts the defendants'  
13 mishandling of exculpatory and/or impeaching evidence  
14 both as to Fitzpatrick and Mitchell?

15 MR. KORENBAUM: Object to the form of the  
16 question. Mr. Manes can answer it.

17 A. As you read the record, especially the record  
18 and the decisions by the second circuit, it seemed  
19 evident to me that on both Mitchell and Fitzpatrick were  
20 involved somehow in the presentation of their case and  
21 the evidence that was presented engaged in the violation  
22 of Mr. Rivas' constitutional rights handed to the jury  
23 and he was convicted by the jury based upon the  
24 activities and the presentation of facts by  
25 Mr. Fitzpatrick which was in effect supported by the

1 testimony of Dr. Mitchell, it all came from the record in  
2 my determination.

3 Q. Specifically you state in paragraph 205 that  
4 there was subornation of perjury. Can you explain that  
5 allegation, please?

6 MR. KORENBAUM: Object to the form of the  
7 question. Mr. Manes can answer it.

8 A. From my reading of the record and the facts of  
9 the district attorney's office which kept indicating that  
10 they had produced all the documents and they hadn't and  
11 that there was a change in Mr. Mitchell's feelings about  
12 the time of the death based upon the slides which didn't  
13 exist, it struck me Mr. Rivas' constitutional rights were  
14 denied.

15 Q. Then next you state, "Their own perjurious  
16 testimony and their deceit." Can you explain the factual  
17 basis for that claim?

18 A. I'm sorry. Would you say that again, please?

19 Q. Sure. I apologize.

20 A. Which one is that? Are we in 205?

21 Q. We're in 205. I'll redo it. I was coughing.  
22 I apologize.

23 Can you explain the and provide the factual  
24 basis for the allegation that there was perjurious  
25 testimony and deceit by Fitzpatrick and Mitchell?



1 MR. KORENBAUM: Object to the form of the  
2 question. Mr. Manes can answer it.

3 A. In the indictment and reading other documents  
4 in the record, it seems to me that Dr. Mitchell changed  
5 his testimony and as a concern that Mitchell had that  
6 there were claims outstanding against him, which were in  
7 the hands of the district attorney, and that he actually  
8 said to someone that we work for the district attorney  
9 and I've never met a defendant that I wasn't able to  
10 convict on the evidence. These were all in the newspaper  
11 and led me to believe that they had violated Hector's  
12 constitutional rights.

13 Q. Was that statement that your quoting, was that  
14 specifically directed toward the Rivas case, to your  
15 knowledge?

16 A. I'm sorry. Say that again, please.

17 Q. Sure. You're quoting something that Mitchell  
18 told another person, correct?

19 A. Yeah. Yes.

20 Q. Was that discussion about the Rivas case?

21 A. That's where I read it, in the record.

22 Q. Do you know if the discussion that Mitchell was  
23 having -- withdrawn.

24 With whom did Mitchell have this alleged  
25 discussion?

1 A. As I remember the record, it was to an  
2 assistant medical examiner or a new medical examiner who  
3 replaced Mitchell.

4 Q. Okay.

5 A. I'm inclined to believe it was one or two now.  
6 Sawyer, I think was there, and -- it's part of the  
7 record, it's all there.

8 Q. Do you recall if they were talking generally?

9 A. I can't answer that.

10 Q. Do you recall if they were talking specifically  
11 about the Rivas case?

12 A. I can't answer that.

13 MR. JULIAN: Scott, if it's okay with you,  
14 this might be a good time to bag it and we'll  
15 start at 9:30.

16 MR. KORENBAUM: Okay. Thank you very  
17 much.

18 VIDEOGRAPHER: It's 12:14 p.m. We're  
19 going off the record.

20 ( Whereupon, the examination concluded )

21 -oOo-  
22  
23  
24  
25

CERTIFICATE OF WITNESS

I, SIDNEY MANES, hereby certify that I have read the foregoing transcript of my deposition taken on October 18, 2022, at approximately 10:00 a.m. in New York State pursuant to the applicable Rules of Civil Procedure and that the foregoing 49 pages of the transcript are in conformity with my testimony given by me, under oath, and at the time and place indicated herein, (with the exception of any corrections made by me on the errata sheet).

\_\_\_\_\_  
SIDNEY MANES

SUBSCRIBED AND SWORN to before me, the undersigned authority on this the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

REPORTER'S CERTIFICATE

I, **LISA M. SCHUSTER**, a Shorthand Reporter and  
Notary Public in and for the State of New York, DO HEREBY  
CERTIFY;

that the foregoing proceedings were taken via  
videoconference at the time and place therein set forth,  
at which time the witness was put under oath by me;

that the testimony of the witness and all  
objections made at the time of the examination were  
recorded stenographically by me and were thereafter  
transcribed;

that the foregoing is a true and accurate  
transcript of my stenographic notes in the above-entitled  
matter.

I further certify that I am not a relative or  
employee of any attorney or of any of the parties, nor  
financially interested in the action.

Dated: November 28, 2022

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Lisa M. Schuster